It would be interesting to follow the development of this system of forming and admitting new states in some of its later details, but with the adoption of the ordinance of 1787 and its ratification by Congress under the Constitution the outlines of the system were definitely established. The enabling act, a somewhat uniform set of conditions for admission, and other interesting outgrowths could be easily traced, but the purpose of this paper has been sufficiently accomplished perhaps without it, by showing the rise and development of the idea of new state organization, and a relation between the new governments and that of the United States culminating in admission to the Union as provided by the ordinance of 1787.

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THE COLUMBUS ATTEMPT TO SECURE THREE-CENT FARES.

The year has witnessed at least three notable evidences of a growing interest in the proper relation of the people to their street railways. One has been the widespread interest in the scandalous treatment of the question by the State of Pennsylvania and by its largest city. Another incident of note has been the able report of the Chicago Street Railway Commission, and a third has been the occurrences at Columbus, Ohio. Of the last, only, is it proposed here to write. For months the capital of the state was stirred to its depths by the agitation on the subject. The papers throughout the state often discussed it. The issues raised led to a political overturn in the city, and undoubtedly increased the majority cast for the present mayor of Cleveland at the same spring elections. As the situation contains lessons for the whole country and has never been fully presented outside of Ohio, a brief account may be here given.

The Columbus Railway Company came before the city council of that city in January, 1901, to secure an extension of its franchises for twenty-five years. The company possessed franchises on many streets, which were to expire at various periods during the next few years, and it claimed perpetual rights on other streets—and those the most important and profitable—although there was a serious doubt whether the latter franchises were valid. The company was not willing to concede its claims regarding the grants that were without time limit, but proposed, in the sought-for franchises, to secure rights on all the streets for twenty-five years, which would be binding even if the courts should declare that the so-called perpetual franchises are invalid. In return for all this, the company was at first willing to concede but little. Cash fares were to continue at five cents, but with larger privileges of transfer: the previous rates, six tickets for twenty-five

cents and twenty-five tickets for $1.00, were finally, in response to a vigorous demand from the people, changed to seven tickets for twenty-five cents in the proposed ordinance. The average rate of fare in 1900 was 4.54 cents.

Before this concession was secured, Honorable Tom L. Johnson, of Cleveland, who had not at this time entered the race for the mayoralty of his city, visited Columbus at the request of a body of citizens, and addressed both them and the city council, opposing a new franchise for twenty-five years on such terms. When pressed to make as good an offer himself as he claimed the company could do, he made the city a remarkable proposition. He agreed upon the following: "(1) Three-cent fares with universal transfers. (2) A limit of profits to the owners of the road of six per cent upon actual cost. (3) That any earnings from the three-cent fare in excess of operating expenses and six per cent upon cost of construction must be applied toward retiring the capital and thus reducing the interest charge. (4) An option to the city to acquire the property at any time and to operate the road, paying therefor only the actual net cost at that time. (5) A reserved right to the city to reduce fares below three cents as fast as earnings would warrant, after paying six per cent on cost of construction; the six per cent in all cases to be figured only upon the cost of the property not yet retired." Thus whenever the cost of the road should have been returned to the owners, the city would have the option either to take the road for nothing or require the company to operate it at a rate of fare which would cover operating expenses only. Mr. Johnson claimed this would be less than two cents per passenger.

He proposed, as he explained at the mass meeting, that the council should assume that the franchises are invalid and have already expired on all the streets wherein there is at least a plausible reason for that contention. The city government should then order the old company off from those streets and give him a franchise on the basis of a straight three cent fare, higher wages, shorter hours, compulsory arbitration of labor disputes, as good service as at present or even better, etc. The ordinance would also provide that he should have similar rights on the other streets for a period not to exceed twenty-five years from now. He would endeavor to secure possession by purchase at a valuation to be determined by arbitration. The next step would be for either Mr. Johnson or the city government to begin the tearing up of the rails on some street where it was plain that the franchise had run out. Of course it would not be intended to proceed further than to provoke the company to issue an injunction, and it might easily be arranged for this to be done before a single rail had been removed. Then the matter would be referred to the courts, the

operation of the railway would go on as now, and Mr. Johnson would bear the expense of maintaining his rights under the ordinance.

He says that he thinks final decision could be reached within two years, and attorneys of good standing scout the idea that it would take any such long period of five to ten years as is claimed by friends of the company. This experienced street railway magnate holds that, if the proposed new company won a victory in the courts with regard to possession of the streets upon which the rights of the old company are most doubtful, and which happen to be by far the best paying lines, the latter would soon be willing to sell out all its tangible property, and then to sell existing franchises at such a fair valuation as might be fixed by the board of arbitrators. Further, Mr. Johnson declared on his honor as a gentleman that he stood ready to put up any bond that the council might order for the full performance of the above and other terms of the ordinance that he presented. These terms included, as just observed, not only full guarantee of better treatment of employees than now, but also complete publicity of accounts and the ultimate turning over to the city, through sinking fund payments in either low fares or otherwise of all the profits of the enterprise after the retirement of the capital, which would never be allowed to have a return of over six per cent.

Mr. Johnson's ordinance, it was shown at the time, could be improved in certain minor particulars, especially with reference to the control by the city government of the number and heating of cars and other matters relating to the comfort and convenience of the traveling public, and he expressed himself as ready to incorporate such improvements. In all respects, however, his proposed ordinance was far superior to that of the existing company.

The friends of the Street Railway Company at once raised three objections to these very attractive propositions, as follows:

1. Mr. Johnson probably was ambitious to be the United States Senator from Ohio, and his proposition was for political effect. The reply that seemed to be conclusive was that while, in view of the past history of Senatorial contests in the Buckeye State it might be evidence of criminal intent or of bad character to run for the United States Senate, yet this was no particular concern of the people of Columbus, provided Mr. Johnson were willing, as he claimed, to furnish any bond that the city might require as evidence of his good faith. No one doubted his extensive and successful street railway experience and possession of sufficient capital to carry out his proposition.

2. It was again objected that he would inevitably lose money and throw up his contract, and at the same time hypnotize the city council into relieving him of any forfeit. This was too serious an indictment

of their own capacity for self-government to have much weight among the people of Columbus. With regard to the possibility of making money on three-cent fares, it was truly said that the street railway traffic in Columbus had grown 72 per cent in ten years, without any material reduction in fares, and would almost certainly grow at least 50 per cent in the next five years with a reduction of one-third in fares and the removal of the necessity of bothering with tickets. Such an increase of 50 per cent in traffic occurred in Toronto in the six years, 1893–99, without any change of fares, and with a cost of operation and taxes per passenger, for the 10,611,930 new passengers, of only $112,728 per year, or 1.06 cents per passenger. This brought down the average cost for the entire number carried in this Canadian city from 2.53 cents in 1893 to almost exactly two cents in 1899. The operating expenses and taxes in 1899, in Columbus, were only 2.4 cents per passenger, with seven more miles of track than in Toronto, and with two-thirds as many passengers per year. Such increase of traffic as would come from a large reduction of fares would be in the short rides which are the most profitable to the company and in the more extensive use of all of the track, and would not call for increase of capital expenditure, save to a moderate extent in equipment. There is every reason, therefore, to believe that such a company, carrying 20,000,000 passengers for 2.4 cents per passenger, could carry another 10,000,000 for one cent per passenger. This would bring the average below two cents. Because of its level area and comparatively little snow and only moderate wages, the Columbus street railways can be operated at much less expense per passenger than in the smaller Eastern cities.

3. A third objection raised against Mr. Johnson's proposition, and the one that influenced many, was the enormous depreciation in the stocks and even the bonds of the present company that would result if it were not given a new franchise upon practically its own terms. The most careful investigation that the writer could make, aided by some excellent expert engineering assistance, showed that the road could be duplicated to-day for about $25,000 a mile, or $2,500,000. This low figure need not surprise any who are familiar with the official inventories of the Massachusetts companies. The admirable plant at Springfield, Mass., for example, whose output, cars, power plant, etc., seem to be superior, per mile of single track to those at Columbus, has been valued by the highest authority, the expert of the Massachusetts Railroad Commission, at about $33,000 per mile, and has capital stock and funded and other indebtedness of only $30,000 a mile. On the other hand, the Columbus road is stocked and bonded for $115,000 per mile. The way this arose is one of the most interesting and instructive chapters in stock watering. The road, in its present shape, was

practically organized in 1892 by the purchase for $2,250,000 of the only road of any importance then existing in the city. The old road had cost scarcely one-half what was paid for it. The other half was payment for franchise, but bonds were issued to cover the entire amount of purchase, and on top of that, $3,000,000 of stock was issued, partly as a bonus for the buyers of the bonds, or for the syndicate that floated them, and partly for the promotors. Thus the road started, not only with all its stock watered, but with half its bonds of the same character. The defence for this financiering was twofold: First, it was necessary to issue this stock in order to float the bonds, and it was necessary to float the amount of bonds actually issued in order to buy the road, but of course it was not necessary to buy the road, and hence the issue of either stock or bonds was not, in the last resort, obligatory upon the existing company. In the second place, it was urged that the stock was issued in order to obey the Ohio law that forbids the issue of any more bonds than there is stock. In other words, with charming *naiveté*, this company claims that it issued the watered stock out of its supreme desire to obey the existing law. A more delightful illustration of the willful perversion of the meaning of a statute could not be imagined. The framers of the Ohio law, of course, did not mean to compel stock watering, but to restrict it. The result well illustrates how corporation attorneys often play ducks and drakes with laws that are inconvenient to them, and then insist that they are eager to obey the law.

This Columbus company, which in 1892 had just paid $2,250,000 for its property, took oath to the tax assessors through its vice-president, that it was worth only $144,000. Even as late as May, 1899, when it had outstanding $6,500,000 of par value of securities worth fully that in the market, the company declared under oath that its property was worth only $417,074, and in 1900, shortly before it sought the new ordinance, it declared to the assessors that its physical property, apart from its franchise, could not be sold for $375,000. Yet real estate in the city in the hands of private individuals is in general assessed for one-half of its value.

In order to buy out other roads that had started in the city, the company after 1892 issued other bonds with which to pay not only for physical property, but for franchises, or for improvements to take the place of old equipment which was discarded, but whose cost was not written off the capital account. Hence at the present time the bonds of the company amount to $5,372,000, while through the same interesting obedience to Ohio law, as above described, the stock has been increased to $6,000,000. Not one dollar of the entire stock has ever been paid into the treasury of the company out of the pockets of

the stockholders, while the bonds as indicated, are more than double the value of the physical property of the road. Yet not only have the bonds been sold at par, but the $3,000,000 of preferred stock was selling at nearly 100 when a new franchise was sought, and the $3,000,000 common stock was selling at over 35. The entire value of this stock represented not the worth of their existing franchises, but the gamble of the investors that new franchises of enormous value would be soon freely given away by the city in return for very moderate concessions, as proved to be the case.

Mr. Johnson argued that the nearly 21,000,000 passengers carried in 1900 would increase to fully 31,000,000 within three or four years if the fare was reduced to three cents. He then held that the profit per passenger would be at least one cent, which would be equal to six per cent on over $5,000,000, and with the prospect of still further increase long before the twenty-five years of the new franchise had expired, while he assumed that this $5,000,000 would not only pay for the present structural value of the old plant, but would pay over $1,000,000 for the value of any franchises they still possessed, and leave another $1,000,000 for the improvement of the track, rolling stock and power plant.

The company, however, secured the passage of the ordinance it desired. Seven tickets for twenty-five cents, with universal transfers, were conceded. This would mean, if everyone bought tickets, an average of only 3.56 cents, and if three-quarters of the people bought tickets, an average of 3.92 cents. Columbus, therefore, has secured the lowest rate of fare of any city on the continent, although this is fully three-fourths of a cent higher than was offered by the present mayor of Cleveland.

When the ordinance extending the franchises came up for final passage in the city council, February 4, last, it was well understood that the council were determined to pass it. Rumors were rife of bribery, and threats of violence against those suspected of receiving the same were in the air. The then mayor, who believed in the extension of the old franchise, not only filled the lobby with police but had a militia company drilling overhead, and declared that it would remain there until the council had adjourned.

Since the passage of the ordinance cases have been instituted in the courts by one or more Columbus citizens to test the legality of the new franchise and of the claims of the company to perpetual rights on the most valuable streets. It is proposed to carry the suits up to the United States Court, if necessary, and the briefs that have been filed on both sides constitute perhaps the most exhaustive treatment of the legality of unlimited franchises that ever has been prepared. What-

ever the outcome, it is clear that the people would have been far better satisfied and their rights would have been far better preserved, had the law given the voters, on petition of a certain percentage, the right of approval or disapproval of the ordinance as it passed the council. The whole history of the case has been a great education to the people in the profitableness of these great franchises and the weakness of our city councils, as now organized, to cope properly with such matters.

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THE STATE MILITARY PENSION SYSTEM OF TENNESSEE.

The maintenance of a military pension system in the United States is usually considered to be one of the functions of the Federal Government. But it is by no means an exclusive function. The national system provides only for the Union soldiers of the Civil War, and expressly bars from its benefits those who fought in the Confederate armies. For this reason, the individual southern states have very generally established pension systems for the aid of the disabled or indigent Confederate veterans among their citizens. Some of these systems are based upon provisions in the constitutions of the states concerned and others upon statutory enactments. In comparison with the heavy expenditures of the national government, the payments made by these states are small. But the considerable amount expended by some of the states in proportion to their resources is shown in the case of Georgia, which, in the years 1893 to 1900, paid out between four and five million dollars to Confederate pensioners.

A recent report (August 10, 1901) on the Confederate pensioners of Tennessee furnishes some interesting information with regard to the operation of the pension laws of that state. The present pension system of Tennessee owes its existence to a law of 1891. It is administered by a Board of Pension Examiners, consisting of the Comptroller and Attorney-General of the state and of three ex-Confederate soldiers "suggested by the Tennessee Division of Confederate veterans," appointed by the Governor, and holding office for two years without pay. This board has full and final power to hear and determine all applications for pensions, and to strike from the rolls at any time, after due notice and hearing, any names which may be improperly there.

Nominally, the Tennessee law provides for Federal and Confederate soldiers alike. But since it must appear that applicants "are not pensioners entitled to pension under the laws of the Federal Government or of any other state," the benefits of the act are in fact confined to Confederate soldiers. The national laws are more liberal